



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,477	08/22/2006	Torsten Branderburger	05116835	1954
26565	7590	12/26/2007		
MAYER BROWN LLP P.O. BOX 2828 CHICAGO, IL 60690			EXAMINER MARCETICH, ADAM M	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,477

Applicant(s)

BRANDERBURGER ET AL.

Examiner

Adam Marcetich

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). A certified copy of parent Application No. Germany 103 13 760.2, filed on 27 March 2003 has been received.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

Claim Objections

4. Claims 5-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 5. See MPEP § 608.01(n). Accordingly, the claims 5-10 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(a or e) as being anticipated by Knierbein (US Patent 6,364,143).

7. Regarding claim 1, Knierbein discloses a connector for packings containing medical liquids, particularly infusion, transfusion or enteral bags, with:

a connecting part with a passage for accommodating a spike for withdrawal of the liquid (column 3, lines 32-54 and Fig. 1, base body 2 having passage);

a closure part which can be fitted onto the connecting part and closes the passage in the connecting part (column 3, lines 32-54 and Figs. 1-2, protective cap 5 closing passage in base body 2);

characterized in that the connecting part has an elastically deformable pinching-off part designed as a tubular portion (column 3, lines 32-54 and Fig. 1, tubular upper part 4);

with a noncircular cross section (column 3, lines 32-54 and Fig. 1, base body 2 comprising radially projecting wing-like pieces 7 and 8 with non-circular cross section); and

in that the pinching-off part merges into a base part which widens to both sides and which can be integrated in the packing (column 3, lines 32-54 and Fig. 1, boat-shaped lower part 3).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knierbein (US Patent 6,364,143) in view of Burns (US Patent 5,494,170).

11. Regarding claim 2, Knierbein discloses the invention as substantially claimed, see above. However, Knierbein lacks a snap fit as claimed [claim 2]. Burns discloses a closure part and connecting part secured with a snap fit (column 2, lines 61-67 and column 3, lines 13-23, Fig. 1, cam ring 4 and cooperating cam follower ring 16 forming snap-fit). Burns provides the advantage of temporary closure between a cover and medicament dispenser. This allows a user to reseal the container after withdrawing fluid with a piercing member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Knierbein as discussed with the snap fit as taught by Burns in order to temporarily close a medicament dispenser.

12. Regarding claim 3, Knierbein discloses the invention as substantially claimed, see above. However, Knierbein lacks a self-sealing membrane arranged between a connecting part and closure part as claimed [claim 3]. Burns discloses a self-sealing membrane (column 2, lines 8-11, 53-58, Fig. 1 stopper 12). Burns provides the advantage of a repeatedly pierceable membrane that allows for multiple withdrawals of fluid or medicament with a piercing member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention

of Knierbein as discussed with the self-sealing membrane as taught by Burns in order to provide multiple sample withdrawals from a container.

13. Regarding claim 4, Knierbein discloses the invention as substantially claimed, see above. However, Knierbein lacks a self-sealing membrane held clamped with elastic deformation between a connecting part and a closure part as claimed [claim 4]. Burns discloses a self-sealing membrane held clamped with elastic deformation between a connecting part and a closure part (column 2, lines 53-58 and Fig. 1, stopper 12 depicted as held between tube 1 and shield 11). Burns provides the advantage of simple construction in addition to multiple withdrawals as discussed for claim 3 above. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Knierbein as discussed with the clamped, self-sealing membrane as taught by Burns in order to provide simple construction and multiple sample withdrawals.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- ❖ Knierbein (US Patent 6,485,479)
- ❖ Holtz (US Patent 4,944,736)
- ❖ Herweck et al. (US Patent 5,380,314)
- ❖ Kastenbaum (US Patent 5,429,256)
- ❖ Jansen et al. (US Patent 6,378,714)
- ❖ Shiraishi et al. (US Patent Application Publication No. 2003/0105448)
- ❖ Federighi et al. (US Patent 6,234,333)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Marcetich whose telephone number is 571-272-2590. The examiner can normally be reached on 8:00am to 4:00pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/550,477
Art Unit: 3761

Page 8

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adam Marcetich
Examiner
Art Unit 3761

Adam Marcetich

AMM

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

Tatyana Zalukaeva